

# **EXHIBIT A**

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**From:** O'Toole, Daniel  
**Sent:** Friday, January 10, 2025 2:57 PM  
**To:** Elliot Gee; English, Melissa; Matthew Dowd  
**Cc:** McClammy, James I.; Miller, Benjamin M.; Thomson, Daniel J.; PKane@foxrothschild.com; SPlacey@foxrothschild.com  
**Subject:** RE: FTC et al. v. Syngenta et al. (No. 1:22-cv-00828) & In re Crop Protection Products Loyalty Program Antitrust Litigation (No. 1:23-md-3062-TDS-JEP)  
**Attachments:** 2025.01.10.Miller.to.Dowd.re.Subpoena.pdf

Matt, Elliot,

[REDACTED]

Best,  
Dan

**Daniel O'Toole**

**Davis Polk & Wardwell LLP**  
+1 202 962 7166 office  
+1 203 883 1123 mobile  
[daniel.otoole@davispolk.com](mailto:daniel.otoole@davispolk.com)

---

**From:** O'Toole, Daniel <daniel.otoole@davispolk.com>  
**Sent:** Wednesday, January 8, 2025 10:58 AM  
**To:** Elliot Gee <ege@downscheidung.com>; English, Melissa <melissa.english@davispolk.com>; Matthew Dowd <mdowd@downscheidung.com>  
**Cc:** McClammy, James I. <james.mcclammy@davispolk.com>; Miller, Benjamin M. <benjamin.miller@davispolk.com>; Thomson, Daniel J. <daniel.thomson@davispolk.com>; PKane@foxrothschild.com; SPlacey@foxrothschild.com  
**Subject:** RE: FTC et al. v. Syngenta et al. (No. 1:22-cv-00828) & In re Crop Protection Products Loyalty Program Antitrust Litigation (No. 1:23-md-3062-TDS-JEP)

[REDACTED]

Best,  
Dan

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---

**From:** Elliot Gee <ege@downscheidung.com>  
**Sent:** Tuesday, January 7, 2025 8:00 PM  
**To:** O'Toole, Daniel <daniel.otoole@davispolk.com>; English, Melissa <melissa.english@davispolk.com>; Matthew Dowd <mdowd@downscheidung.com>  
**Cc:** McClammy, James I. <james.mcclammy@davispolk.com>; Miller, Benjamin M. <benjamin.miller@davispolk.com>;

Thomson, Daniel J. <[daniel.thomson@davispolk.com](mailto:daniel.thomson@davispolk.com)>; [PKane@foxrothschild.com](mailto:PKane@foxrothschild.com); [SPlacey@foxrothschild.com](mailto:SPlacey@foxrothschild.com)  
Subject: Re: FTC et al. v. Syngenta et al. (No. 1:22-cv-00828) & In re Crop Protection Products Loyalty Program Antitrust Litigation (No. 1:23-md-3062-TDS-JEP)

Daniel,

[REDACTED]

Sincerely,

Elliot Gee  
Associate,



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Office: 202.559.9175 | Direct: 650.534.5302  
<http://www.dowdscheffel.com>

---

**From:** O'Toole, Daniel <[daniel.otoole@davispolk.com](mailto:daniel.otoole@davispolk.com)>  
**Date:** Monday, December 30, 2024 at 11:39 AM  
**To:** English, Melissa <[melissa.english@davispolk.com](mailto:melissa.english@davispolk.com)>, Elliot Gee <[eggee@dowdscheffel.com](mailto:eggee@dowdscheffel.com)>, Matthew Dowd <[mdowd@dowdscheffel.com](mailto:mdowd@dowdscheffel.com)>  
**Cc:** McClammy, James I. <[james.mcclammy@davispolk.com](mailto:james.mcclammy@davispolk.com)>, Miller, Benjamin M. <[benjamin.miller@davispolk.com](mailto:benjamin.miller@davispolk.com)>, Thomson, Daniel J. <[daniel.thomson@davispolk.com](mailto:daniel.thomson@davispolk.com)>, Kane, Patrick M. <[PKane@foxrothschild.com](mailto:PKane@foxrothschild.com)>, Placey, Sean <[SPlacey@foxrothschild.com](mailto:SPlacey@foxrothschild.com)>  
**Subject:** RE: FTC et al. v. Syngenta et al. (No. 1:22-cv-00828) & In re Crop Protection Products Loyalty Program Antitrust Litigation (No. 1:23-md-3062-TDS-JEP)

Matt, Elliott,

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Thanks,  
Dan

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**From:** English, Melissa <[melissa.english@davispolk.com](mailto:melissa.english@davispolk.com)>  
**Sent:** Friday, December 20, 2024 11:33 AM  
**To:** Elliot Gee <[eggee@dowdscheffel.com](mailto:eggee@dowdscheffel.com)>; Matthew Dowd <[mdowd@dowdscheffel.com](mailto:mdowd@dowdscheffel.com)>

Cc: McClammy, James I. <[james.mcclammy@davispolk.com](mailto:james.mcclammy@davispolk.com)>; Miller, Benjamin M. <[benjamin.miller@davispolk.com](mailto:benjamin.miller@davispolk.com)>; Thomson, Daniel J. <[daniel.thomson@davispolk.com](mailto:daniel.thomson@davispolk.com)>; O'Toole, Daniel <[daniel.otoole@davispolk.com](mailto:daniel.otoole@davispolk.com)>; Kane, Patrick M. <[PKane@foxrothschild.com](mailto:PKane@foxrothschild.com)>; Placey, Sean <[SPlacey@foxrothschild.com](mailto:SPlacey@foxrothschild.com)>  
Subject: RE: FTC et al. v. Syngenta et al. (No. 1:22-cv-00828) & In re Crop Protection Products Loyalty Program Antitrust Litigation (No. 1:23-md-3062-TDS-JEP)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Best,  
Melissa  
Melissa English

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Confidentiality Note: This email is intended only for the person or entity to which it is addressed and may contain information that is privileged, confidential or otherwise protected from disclosure. Unauthorized use, dissemination, distribution or copying of this email or the information herein or taking any action in reliance on the contents of this email or the information herein, by anyone other than the intended recipient, or an employee or agent responsible for delivering the message to the intended recipient, is strictly prohibited. If you have received this email in error, please notify the sender immediately and destroy the original message, any attachments thereto and all copies. Please refer to the firm's [privacy notice](#) for important information on how we process personal data. Our website is at [davispolk.com](http://davispolk.com).

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**From:** Elliot Gee <[eggee@dowdscheffel.com](mailto:eggee@dowdscheffel.com)>  
**Sent:** Wednesday, December 18, 2024 10:07 AM  
**To:** O'Toole, Daniel <[daniel.otoole@davispolk.com](mailto:daniel.otoole@davispolk.com)>; Matthew Dowd <[mdowd@dowdscheffel.com](mailto:mdowd@dowdscheffel.com)>; Kane, Patrick M. <[PKane@foxrothschild.com](mailto:PKane@foxrothschild.com)>  
**Cc:** McClammy, James I. <[james.mcclammy@davispolk.com](mailto:james.mcclammy@davispolk.com)>; Miller, Benjamin M. <[benjamin.miller@davispolk.com](mailto:benjamin.miller@davispolk.com)>; Thomson, Daniel J. <[daniel.thomson@davispolk.com](mailto:daniel.thomson@davispolk.com)>; English, Melissa <[melissa.english@davispolk.com](mailto:melissa.english@davispolk.com)>; Placey, Sean <[SPlacey@foxrothschild.com](mailto:SPlacey@foxrothschild.com)>  
**Subject:** Re: FTC et al. v. Syngenta et al. (No. 1:22-cv-00828) & In re Crop Protection Products Loyalty Program Antitrust Litigation (No. 1:23-md-3062-TDS-JEP)

Daniel,

[REDACTED]

Sincerely,

Elliot Gee  
Associate,

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**From:** O'Toole, Daniel <[daniel.otoole@davispolk.com](mailto:daniel.otoole@davispolk.com)>  
**Date:** Wednesday, December 18, 2024 at 9:28 AM

**To:** Elliot Gee <[egee@dowdscheffel.com](mailto:egee@dowdscheffel.com)>, Matthew Dowd <[mdowd@dowdscheffel.com](mailto:mdowd@dowdscheffel.com)>, Kane, Patrick M. <[PKane@foxrothschild.com](mailto:PKane@foxrothschild.com)>  
**Cc:** McClammy, James I. <[james.mcclammy@davispolk.com](mailto:james.mcclammy@davispolk.com)>, Miller, Benjamin M. <[benjamin.miller@davispolk.com](mailto:benjamin.miller@davispolk.com)>, Thomson, Daniel J. <[daniel.thomson@davispolk.com](mailto:daniel.thomson@davispolk.com)>, English, Melissa <[melissa.english@davispolk.com](mailto:melissa.english@davispolk.com)>, Placey, Sean <[SPlacey@foxrothschild.com](mailto:SPlacey@foxrothschild.com)>  
**Subject:** RE: FTC et al. v. Syngenta et al. (No. 1:22-cv-00828) & In re Crop Protection Products Loyalty Program Antitrust Litigation (No. 1:23-md-3062-TDS-JEP)

[REDACTED]

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**From:** Elliot Gee <[egee@dowdscheffel.com](mailto:egee@dowdscheffel.com)>  
**Sent:** Tuesday, December 17, 2024 5:36 PM  
**To:** O'Toole, Daniel <[daniel.otoole@davispolk.com](mailto:daniel.otoole@davispolk.com)>; Matthew Dowd <[mdowd@dowdscheffel.com](mailto:mdowd@dowdscheffel.com)>; Kane, Patrick M. <[PKane@foxrothschild.com](mailto:PKane@foxrothschild.com)>  
**Cc:** McClammy, James I. <[james.mcclammy@davispolk.com](mailto:james.mcclammy@davispolk.com)>; Miller, Benjamin M. <[benjamin.miller@davispolk.com](mailto:benjamin.miller@davispolk.com)>; Thomson, Daniel J. <[daniel.thomson@davispolk.com](mailto:daniel.thomson@davispolk.com)>; English, Melissa <[melissa.english@davispolk.com](mailto:melissa.english@davispolk.com)>; Placey, Sean <[SPlacey@foxrothschild.com](mailto:SPlacey@foxrothschild.com)>  
**Subject:** Re: FTC et al. v. Syngenta et al. (No. 1:22-cv-00828) & In re Crop Protection Products Loyalty Program Antitrust Litigation (No. 1:23-md-3062-TDS-JEP)

Daniel,

[REDACTED]

[REDACTED]

Sincerely,

Elliot Gee  
Associate,



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Office: 202.559.9175 | Direct: 650.534.5302  
<http://www.dowdscheffel.com>

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**From:** O'Toole, Daniel <[daniel.otoole@davispolk.com](mailto:daniel.otoole@davispolk.com)>  
**Date:** Tuesday, December 17, 2024 at 10:00 AM  
**To:** Elliot Gee <[egee@dowdscheffel.com](mailto:egee@dowdscheffel.com)>, Matthew Dowd <[mdowd@dowdscheffel.com](mailto:mdowd@dowdscheffel.com)>, Kane, Patrick M. <[PKane@foxrothschild.com](mailto:PKane@foxrothschild.com)>  
**Cc:** McClammy, James I. <[james.mcclammy@davispolk.com](mailto:james.mcclammy@davispolk.com)>, Miller, Benjamin M.

<[benjamin.miller@davispolk.com](mailto:benjamin.miller@davispolk.com)>, Thomson, Daniel J. <[daniel.thomson@davispolk.com](mailto:daniel.thomson@davispolk.com)>, English, Melissa <[melissa.english@davispolk.com](mailto:melissa.english@davispolk.com)>, Placey, Sean <[SPlacey@foxrothschild.com](mailto:SPlacey@foxrothschild.com)>  
**Subject:** RE: FTC et al. v. Syngenta et al. (No. 1:22-cv-00828) & In re Crop Protection Products Loyalty Program Antitrust Litigation (No. 1:23-md-3062-TDS-JEP)

Matt, Elliot,

[REDACTED]

[REDACTED]

Best,  
Dan

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From: O'Toole, Daniel <[daniel.otoole@davispolk.com](mailto:daniel.otoole@davispolk.com)>  
Sent: Wednesday, December 11, 2024 3:34 PM  
To: Elliot Gee <[egee@dowdscheffel.com](mailto:egee@dowdscheffel.com)>; Matthew Dowd <[mdowd@dowdscheffel.com](mailto:mdowd@dowdscheffel.com)>; Kane, Patrick M. <[PKane@foxrothschild.com](mailto:PKane@foxrothschild.com)>  
Cc: McClammy, James I. <[james.mcclammy@davispolk.com](mailto:james.mcclammy@davispolk.com)>; Miller, Benjamin M. <[benjamin.miller@davispolk.com](mailto:benjamin.miller@davispolk.com)>; Thomson, Daniel J. <[daniel.thomson@davispolk.com](mailto:daniel.thomson@davispolk.com)>; English, Melissa <[melissa.english@davispolk.com](mailto:melissa.english@davispolk.com)>; Placey, Sean <[SPlacey@foxrothschild.com](mailto:SPlacey@foxrothschild.com)>  
Subject: RE: FTC et al. v. Syngenta et al. (No. 1:22-cv-00828) & In re Crop Protection Products Loyalty Program Antitrust Litigation (No. 1:23-md-3062-TDS-JEP)

Matt, Elliot,

[REDACTED]

[REDACTED]

• [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Best,  
Dan

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From: O'Toole, Daniel <[daniel.otoole@davispolk.com](mailto:daniel.otoole@davispolk.com)>  
Sent: Tuesday, December 10, 2024 3:22 PM  
To: Elliot Gee <[eggee@dowdscheffel.com](mailto:eggee@dowdscheffel.com)>; Matthew Dowd <[mdowd@dowdscheffel.com](mailto:mdowd@dowdscheffel.com)>; Kane, Patrick M. <[PKane@foxrothschild.com](mailto:PKane@foxrothschild.com)>  
Cc: McClammy, James I. <[james.mcclammy@davispolk.com](mailto:james.mcclammy@davispolk.com)>; Miller, Benjamin M. <[benjamin.miller@davispolk.com](mailto:benjamin.miller@davispolk.com)>; Thomson, Daniel J. <[daniel.thomson@davispolk.com](mailto:daniel.thomson@davispolk.com)>; English, Melissa <[melissa.english@davispolk.com](mailto:melissa.english@davispolk.com)>  
Subject: RE: FTC et al. v. Syngenta et al. (No. 1:22-cv-00828) & In re Crop Protection Products Loyalty Program Antitrust Litigation (No. 1:23-md-3062-TDS-JEP)

[REDACTED]



Best,  
Dan

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[daniel.otoole@davispolk.com](mailto:daniel.otoole@davispolk.com)

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**From:** Elliot Gee <[eggee@dowdscheffel.com](mailto:eggee@dowdscheffel.com)>  
**Sent:** Friday, December 6, 2024 6:33 PM  
**To:** O'Toole, Daniel <[daniel.otoole@davispolk.com](mailto:daniel.otoole@davispolk.com)>; Matthew Dowd <[mdowd@dowdscheffel.com](mailto:mdowd@dowdscheffel.com)>; Kane, Patrick M. <[PKane@foxrothschild.com](mailto:PKane@foxrothschild.com)>  
**Cc:** McClammy, James I. <[james.mcclammy@davispolk.com](mailto:james.mcclammy@davispolk.com)>; Miller, Benjamin M. <[benjamin.miller@davispolk.com](mailto:benjamin.miller@davispolk.com)>; Thomson, Daniel J. <[daniel.thomson@davispolk.com](mailto:daniel.thomson@davispolk.com)>; English, Melissa <[melissa.english@davispolk.com](mailto:melissa.english@davispolk.com)>  
**Subject:** Re: FTC et al. v. Syngenta et al. (No. 1:22-cv-00828) & In re Crop Protection Products Loyalty Program Antitrust Litigation (No. 1:23-md-3062-TDS-JEP)

Daniel,

Please find attached correspondence as well as Atticus's current organizational chart, which is being produced as HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY.

Sincerely,

Elliot Gee  
Associate,

**DOWD  
SCHEFFEL**  
— PLLC —

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---

**From:** O'Toole, Daniel <[daniel.otoole@davispolk.com](mailto:daniel.otoole@davispolk.com)>  
**Date:** Tuesday, November 26, 2024 at 11:40 AM  
**To:** Matthew Dowd <[mdowd@dowdscheffel.com](mailto:mdowd@dowdscheffel.com)>, Kane, Patrick M. <[PKane@foxrothschild.com](mailto:PKane@foxrothschild.com)>, Elliot Gee <[eggee@dowdscheffel.com](mailto:eggee@dowdscheffel.com)>  
**Cc:** McClammy, James I. <[james.mcclammy@davispolk.com](mailto:james.mcclammy@davispolk.com)>, Miller, Benjamin M. <[benjamin.miller@davispolk.com](mailto:benjamin.miller@davispolk.com)>, Thomson, Daniel J. <[daniel.thomson@davispolk.com](mailto:daniel.thomson@davispolk.com)>, English, Melissa <[melissa.english@davispolk.com](mailto:melissa.english@davispolk.com)>  
**Subject:** FW: FTC et al. v. Syngenta et al. (No. 1:22-cv-00828) & In re Crop Protection Products Loyalty Program Antitrust Litigation (No. 1:23-md-3062-TDS-JEP)

Hi Matt,

Just wanted to see if you had any updates on the below. We are happy to speak today or tomorrow if helpful.

Best,  
Dan

**Daniel O'Toole**

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[daniel.otoole@davispolk.com](mailto:daniel.otoole@davispolk.com)

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**From:** O'Toole, Daniel <[daniel.otoole@davispolk.com](mailto:daniel.otoole@davispolk.com)>  
**Sent:** Friday, November 22, 2024 9:57 PM  
**To:** Matthew Dowd <[mdowd@dowdscheffel.com](mailto:mdowd@dowdscheffel.com)>; Kane, Patrick M. <[PKane@foxrothschild.com](mailto:PKane@foxrothschild.com)>; Elliot Gee <[eggee@dowdscheffel.com](mailto:eggee@dowdscheffel.com)>  
**Cc:** McClammy, James I. <[james.mcclammy@davispolk.com](mailto:james.mcclammy@davispolk.com)>; Miller, Benjamin M. <[benjamin.miller@davispolk.com](mailto:benjamin.miller@davispolk.com)>; Thomson, Daniel J. <[daniel.thomson@davispolk.com](mailto:daniel.thomson@davispolk.com)>; English, Melissa <[melissa.english@davispolk.com](mailto:melissa.english@davispolk.com)>  
**Subject:** RE: FTC et al. v. Syngenta et al. (No. 1:22-cv-00828) & In re Crop Protection Products Loyalty Program Antitrust Litigation (No. 1:23-md-3062-TDS-JEP)

Matt,

Thank you for the meet and confer earlier today. We are writing with the follow-up items we discussed. We are available to speak again on Monday at 3-3:30pm or 4-5pm ET, or Tuesday from 10-11am, 11:30-1:30pm, or 2:30-4pm ET.

### **Document Collections and Productions**

Attached are proposed search terms that Syngenta requests Atticus run over the emails and documents of to-be-agreed-upon custodians, from 2015 to present.

We understand that Atticus CEO Randy Canady was one custodian for Atticus's document productions in response to the FTC's pre-complaint CID. Please confirm the identities of any other custodians for which Atticus produced documents in response to the FTC's CID. Please also send us a recent organizational chart for Atticus.

### **Data Productions**

In the FTC's pre-complaint investigation, Atticus produced invoice- and customer-level sales, rebate, cost, and margin data covering products containing azoxystrobin, s-metolachlor, mesotrione, oxamyl, and rimsulfuron (file labeled "ATTICUSFTC009534"). The table below contains the active ingredients alleged in the complaints and certain functional equivalents to those active ingredients. From public information, we understand that Atticus currently sells products that contain the active ingredients marked with an "X" in the fourth column in the table below.

We request that Atticus:

1. Produce supplemental data, in the form of ATTICUSFTC009534, for all products sold by Atticus from 2015 (or the earliest date after 2015 for which data are available) to present that contain any active ingredient marked with an "X" in the fourth column below (in each instance, either as a single AI product or a mixture product); and
2. Confirm that Atticus has not sold any products containing any other AI on the below list since 2015 (or the earliest date after 2015 for which data are available), or, to the extent that Atticus has, add those products into the data production outlined in (1) above.

Category	Active Ingredient	Resistance Action Committee group	Currently Sold by Atticus per Public information
<b>Fungicides</b>	<b>azoxystrobin</b>	<b>FRAC 11</b>	X
Fungicides	benzovindiflupyr	FRAC 7	
Fungicides	chlorothalonil	FRAC M5	
Fungicides	fluoxastrobin	FRAC 11	
Fungicides	picoxystrobin	FRAC 11	
Fungicides	pydiflumetofen	FRAC 7	
Fungicides	pyraclostrobin	FRAC 11	
Fungicides	trifloxystrobin	FRAC 11	
<b>Herbicides</b>	<b>fomesafen</b>	<b>HRAC 14</b>	X
<b>Herbicides</b>	<b>mesotrione</b>	<b>HRAC 27</b>	X
<b>Herbicides</b>	<b>s-metolachlor/metolachlor</b>	<b>HRAC 15</b>	X
<b>Herbicides</b>	<b>paraquat</b>	<b>HRAC 22</b>	
Herbicides	acetochlor	HRAC 15	X
Herbicides	atrazine	HRAC 5	
Herbicides	bicyclopyrone	HRAC 27	
Herbicides	dicamba	HRAC 4	X
Herbicides	dimethenamid/dimethenamid-p	HRAC 15	
Herbicides	diquat	HRAC 22	X
Herbicides	flumioxazin	HRAC 14	X
Herbicides	fluthiacet-methyl	HRAC 14	
Herbicides	glufosinate	HRAC 10	X
Herbicides	glyphosate	HRAC 9	
Herbicides	isoxaflutole	HRAC 27	
Herbicides	metribuzin	HRAC 5	X
Herbicides	pyroxasulfone	HRAC 15	
Herbicides	saflufenacil	HRAC 14	
Herbicides	sulfentrazone	HRAC 14	X
Herbicides	tembotrione	HRAC 27	
Herbicides	topramezone	HRAC 27	
<b>Insecticides</b>	<b>lambda-cyhalothrin</b>	<b>IRAC 3A</b>	X
<b>Insecticides</b>	<b>abamectin</b>	<b>IRAC 6</b>	X
<b>Insecticides</b>	<b>bifenthrin</b>	<b>IRAC 3A</b>	X
<b>Insecticides</b>	<b>cyfluthrin</b>	<b>IRAC 3A</b>	X
<b>Insecticides</b>	<b>Cypermethrin (and variants)</b>	<b>IRAC 3A</b>	X
<b>Insecticides</b>	<b>deltamethrin</b>	<b>IRAC 3A</b>	
<b>Insecticides</b>	<b>esfenvalerate</b>	<b>IRAC 3A</b>	
<b>Insecticides</b>	<b>imidacloprid</b>	<b>IRAC 4A</b>	X
<b>Insecticides</b>	<b>permethrin</b>	<b>IRAC 3A</b>	
<b>Insecticides</b>	<b>tefluthrin</b>	<b>IRAC 3A</b>	

Daniel O'Toole

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---

**From:** Matthew Dowd <[mdowd@dowdscheffel.com](mailto:mdowd@dowdscheffel.com)>  
**Sent:** Friday, November 22, 2024 10:03 AM  
**To:** O'Toole, Daniel <[daniel.otoole@davispolk.com](mailto:daniel.otoole@davispolk.com)>; Kane, Patrick M. <[PKane@foxrothschild.com](mailto:PKane@foxrothschild.com)>; Elliot Gee <[eggee@dowdscheffel.com](mailto:eggee@dowdscheffel.com)>  
**Cc:** McClammy, James I. <[james.mcclammy@davispolk.com](mailto:james.mcclammy@davispolk.com)>; Miller, Benjamin M. <[benjamin.miller@davispolk.com](mailto:benjamin.miller@davispolk.com)>; Thomson, Daniel J. <[daniel.thomson@davispolk.com](mailto:daniel.thomson@davispolk.com)>; English, Melissa <[melissa.english@davispolk.com](mailto:melissa.english@davispolk.com)>; Crouch, Kim <[KCrouch@foxrothschild.com](mailto:KCrouch@foxrothschild.com)>  
**Subject:** Re: FTC et al. v. Syngenta et al. (No. 1:22-cv-00828) & In re Crop Protection Products Loyalty Program Antitrust Litigation (No. 1:23-md-3062-TDS-JEP)

We should be free from 12:30 to 1 PM ET.

---

**From:** "O'Toole, Daniel" <[daniel.otoole@davispolk.com](mailto:daniel.otoole@davispolk.com)>  
**Date:** Friday, November 22, 2024 at 10:00 AM  
**To:** Matthew Dowd <[mdowd@dowdscheffel.com](mailto:mdowd@dowdscheffel.com)>, "Kane, Patrick M." <[PKane@foxrothschild.com](mailto:PKane@foxrothschild.com)>, Elliot Gee <[eggee@dowdscheffel.com](mailto:eggee@dowdscheffel.com)>  
**Cc:** "McClammy, James I." <[james.mcclammy@davispolk.com](mailto:james.mcclammy@davispolk.com)>, "Miller, Benjamin M." <[benjamin.miller@davispolk.com](mailto:benjamin.miller@davispolk.com)>, "Thomson, Daniel J." <[daniel.thomson@davispolk.com](mailto:daniel.thomson@davispolk.com)>, "English, Melissa" <[melissa.english@davispolk.com](mailto:melissa.english@davispolk.com)>, "Crouch, Kim" <[KCrouch@foxrothschild.com](mailto:KCrouch@foxrothschild.com)>  
**Subject:** RE: FTC et al. v. Syngenta et al. (No. 1:22-cv-00828) & In re Crop Protection Products Loyalty Program Antitrust Litigation (No. 1:23-md-3062-TDS-JEP)

Thanks, Matt. Would you be available 12:30-1:30 ET today?

**Daniel O'Toole**

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---

**From:** Matthew Dowd <[mdowd@dowdscheffel.com](mailto:mdowd@dowdscheffel.com)>  
**Sent:** Friday, November 22, 2024 8:29 AM  
**To:** O'Toole, Daniel <[daniel.otoole@davispolk.com](mailto:daniel.otoole@davispolk.com)>; Kane, Patrick M. <[PKane@foxrothschild.com](mailto:PKane@foxrothschild.com)>; Elliot Gee <[eggee@dowdscheffel.com](mailto:eggee@dowdscheffel.com)>  
**Cc:** McClammy, James I. <[james.mcclammy@davispolk.com](mailto:james.mcclammy@davispolk.com)>; Miller, Benjamin M. <[benjamin.miller@davispolk.com](mailto:benjamin.miller@davispolk.com)>; Thomson, Daniel J. <[daniel.thomson@davispolk.com](mailto:daniel.thomson@davispolk.com)>; English, Melissa <[melissa.english@davispolk.com](mailto:melissa.english@davispolk.com)>; Crouch, Kim <[KCrouch@foxrothschild.com](mailto:KCrouch@foxrothschild.com)>  
**Subject:** Re: FTC et al. v. Syngenta et al. (No. 1:22-cv-00828) & In re Crop Protection Products Loyalty Program Antitrust Litigation (No. 1:23-md-3062-TDS-JEP)

Dan,

Thank you for the email and for your patience with our reply.

Would you be available for a call later this afternoon?

Best,  
Matt

---

**From:** "O'Toole, Daniel" <[daniel.otoole@davispolk.com](mailto:daniel.otoole@davispolk.com)>  
**Date:** Thursday, November 21, 2024 at 1:04 PM  
**To:** Matthew Dowd <[mdowd@dowdscheffel.com](mailto:mdowd@dowdscheffel.com)>, "Kane, Patrick M." <[PKane@foxrothschild.com](mailto:PKane@foxrothschild.com)>, Elliot Gee <[eggee@dowdscheffel.com](mailto:eggee@dowdscheffel.com)>  
**Cc:** "McClammy, James I." <[james.mcclammy@davispolk.com](mailto:james.mcclammy@davispolk.com)>, "Miller, Benjamin M." <[benjamin.miller@davispolk.com](mailto:benjamin.miller@davispolk.com)>, "Thomson, Daniel J." <[daniel.thomson@davispolk.com](mailto:daniel.thomson@davispolk.com)>, "English, Melissa" <[melissa.english@davispolk.com](mailto:melissa.english@davispolk.com)>, "Crouch, Kim" <[KCrouch@foxrothschild.com](mailto:KCrouch@foxrothschild.com)>  
**Subject:** RE: FTC et al. v. Syngenta et al. (No. 1:22-cv-00828) & In re Crop Protection Products Loyalty Program Antitrust Litigation (No. 1:23-md-3062-TDS-JEP)

Matt,

Thank you for agreeing to accept service. Syngenta continues to remain willing to work with Atticus regarding Syngenta's subpoena to narrow or eliminate the potential issues that the court must decide as part of our motion to compel. Please let us know if you are interested in discussing.

Thanks,  
Dan

**Daniel O'Toole**

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---

**From:** Matthew Dowd <[mdowd@dowdscheffel.com](mailto:mdowd@dowdscheffel.com)>  
**Sent:** Tuesday, November 19, 2024 4:30 PM  
**To:** Kane, Patrick M. <[PKane@foxrothschild.com](mailto:PKane@foxrothschild.com)>; O'Toole, Daniel <[daniel.otoole@davispolk.com](mailto:daniel.otoole@davispolk.com)>; Elliot Gee <[eggee@dowdscheffel.com](mailto:eggee@dowdscheffel.com)>  
**Cc:** McClammy, James I. <[james.mcclammy@davispolk.com](mailto:james.mcclammy@davispolk.com)>; Miller, Benjamin M. <[benjamin.miller@davispolk.com](mailto:benjamin.miller@davispolk.com)>; Thomson, Daniel J. <[daniel.thomson@davispolk.com](mailto:daniel.thomson@davispolk.com)>; English, Melissa <[melissa.english@davispolk.com](mailto:melissa.english@davispolk.com)>; Crouch, Kim <[KCrouch@foxrothschild.com](mailto:KCrouch@foxrothschild.com)>  
**Subject:** Re: FTC et al. v. Syngenta et al. (No. 1:22-cv-00828) & In re Crop Protection Products Loyalty Program Antitrust Litigation (No. 1:23-md-3062-TDS-JEP)

Thank you. We confirm that we accept service.

Matthew J. Dowd  
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<http://www.dowdscheffel.com>  
<http://www.linkedin.com/in/matthewdowd>

---

**From:** "Kane, Patrick M." <[PKane@foxrothschild.com](mailto:PKane@foxrothschild.com)>  
**Date:** Tuesday, November 19, 2024 at 10:25 AM  
**To:** "O'Toole, Daniel" <[daniel.otoole@davispolk.com](mailto:daniel.otoole@davispolk.com)>, Matthew Dowd <[mdowd@dowdscheffel.com](mailto:mdowd@dowdscheffel.com)>, Elliot Gee <[egee@dowdscheffel.com](mailto:egee@dowdscheffel.com)>  
**Cc:** "McClammy, James I." <[james.mcclammy@davispolk.com](mailto:james.mcclammy@davispolk.com)>, "Miller, Benjamin M." <[benjamin.miller@davispolk.com](mailto:benjamin.miller@davispolk.com)>, "Thomson, Daniel J." <[daniel.thomson@davispolk.com](mailto:daniel.thomson@davispolk.com)>, "English, Melissa" <[melissa.english@davispolk.com](mailto:melissa.english@davispolk.com)>, "Crouch, Kim" <[KCrouch@foxrothschild.com](mailto:KCrouch@foxrothschild.com)>  
**Subject:** RE: FTC et al. v. Syngenta et al. (No. 1:22-cv-00828) & In re Crop Protection Products Loyalty Program Antitrust Litigation (No. 1:23-md-3062-TDS-JEP)

Mr. Dowd and Mr. Gee,

For your records here are the same documents filed last night in the MDL. You will also be receiving all documents filed in both cases in hard copy tomorrow via FedEx.

Pat



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**Patrick M Kane**

Partner

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Suite 1200

Greensboro, NC 27401

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☐ (336) 378-5400

☐ [pkane@foxrothschild.com](mailto:pkane@foxrothschild.com)

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**From:** O'Toole, Daniel <[daniel.otoole@davispolk.com](mailto:daniel.otoole@davispolk.com)>  
**Sent:** Monday, November 18, 2024 11:33 PM  
**To:** [mdowd@dowdscheffel.com](mailto:mdowd@dowdscheffel.com); [egee@dowdscheffel.com](mailto:egee@dowdscheffel.com)  
**Cc:** McClammy, James I. <[james.mcclammy@davispolk.com](mailto:james.mcclammy@davispolk.com)>; Miller, Benjamin M. <[benjamin.miller@davispolk.com](mailto:benjamin.miller@davispolk.com)>; Kane, Patrick M. <[PKane@foxrothschild.com](mailto:PKane@foxrothschild.com)>; Thomson, Daniel J. <[daniel.thomson@davispolk.com](mailto:daniel.thomson@davispolk.com)>; English, Melissa <[melissa.english@davispolk.com](mailto:melissa.english@davispolk.com)>  
**Subject:** [EXT] FTC et al. v. Syngenta et al. (No. 1:22-cv-00828) & In re Crop Protection Products Loyalty Program Antitrust Litigation (No. 1:23-md-3062-TDS-JEP)

Mr. Dowd and Mr. Gee,

Attached please find Syngenta's motion to compel filed today in the above-captioned cases in the United States District Court for the Middle District of North Carolina relating to the subpoena issued by Syngenta to

your client Atticus, LLC. Please confirm that you still represent Atticus in connection with this subpoena as previously indicated by your acceptance of service of the subpoena and service of Atticus's responses and objections, and please also confirm your ability to accept service of this motion and brief.

If we do not receive confirmation of your continued representation by 5PM ET tomorrow, Tuesday, November 19, 2024, we will serve this on the registered agent of Atticus.

Regards,  
Dan O'Toole  
**Daniel O'Toole**

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[daniel.otoole@davispolk.com](mailto:daniel.otoole@davispolk.com)

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**Davis Polk & Wardwell LLP**

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# DOWD SCHEFFEL

— PLLC —

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*Via Electronic Mail*

**December 6, 2024**

Daniel O'Toole  
Davis Polk & Wardwell LLP  
901 15th Street NW,  
Washington, D.C. 20005  
[daniel.otoole@davispolk.com](mailto:daniel.otoole@davispolk.com)

Re: Rule 45 Subpoena to Atticus, LLC in *Federal Trade Commission v. Syngenta Crop Protection AG*, No. 1:22-CV-00828 (M.D.N.C.)

Dear Daniel:

We write on behalf of Atticus, LLC (“Atticus”) to provide Syngenta AG, Syngenta Crop Protection LLC, Syngenta Corp., and Syngenta Crop Protection (“Syngenta”) with an update on Atticus’s objections and response to the Syngenta subpoenas served on Atticus on or around August 6, 2024. This letter continues Atticus’s good-faith effort to resolve the pending dispute concerning the subpoenas. While Atticus maintains its objections to the subpoenas, Atticus remains willing to undertake reasonable efforts for a third party to produce the requested information and documents.

First, as Syngenta certainly understands, Syngenta has an obligation to minimize Atticus’s burden and expenses in responding to a Rule 45 subpoena. Courts are required to allocate costs and fees for significant expenses incurred by a third party. *See, e.g.*, Fed. R. Civ. P. 45(d)(2)(B)(ii); *Linder v. Calero-Porcarrero*, 251 F.3d 178, 182 (D.C. Cir. 2001); *Med. Components, Inc v. Classic Med., Inc.*, 210 F.R.D. 175, 180 n.9 (M.D.N.C. 2002) (“[T]he court should give special weight to the unwanted burden thrust upon non-parties when evaluating the balance of competing needs.” (citing *In re Cusumano v. Microsoft Corp.*, 162 F.3d 708, 717 (1st Cir. 1998))). Given the breadth of Syngenta’s subpoena and the burden imposed by it on Atticus, Atticus intends to seek reimbursement of the anticipated significant costs for responding to the subpoena. *See* Fed. R. Civ. P. 26(c)(1)(B) (“the allocation of expenses”). Please confirm whether Syngenta will agree to reimburse Atticus for its reasonable costs and expenses for responding to the subpoena.

December 6, 2024  
Daniel O'Toole

Second, in response to your November 22, 2024 email, Atticus provides several corrections to your active-ingredient table. Based on our review, Atticus has at one or more times since 2015 sold pesticide products containing one or more of the following active ingredients: azoxystrobin; chlorothalonil; fomesafen; mesotrione; S-metolachlor/metolachlor; paraquat; dicamba; diquat; flumioxazin; glufosinate; metribuzin; sulfentrazone; lambda-cyhalothrin; abamectin; bifenthrin; cyfluthrin; zeta-cypermethrin; deltamethrin; and imidacloprid.

Third, many of Syngenta's proposed search strings are wildly overbroad. For example, Syngenta's proposed Boolean search string for "Product Concerns" seeks a set of twenty-one words located within twenty words of a second set of thirty-one words. Accordingly, this search string alone results in 651 distinct combinations of search terms. The proposed search string for "Relevant Crop Protection Product Business Plans" contains two internal "within" terms that further add to the extraordinary breadth of the proposed search. Indeed, our preliminary analysis of the proposed search strings indicate that such search would identify tens of thousands of documents amounting to hundreds of gigabytes of data. Such a search is plainly not reasonable for a third party.

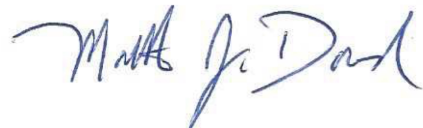
We are willing to meet and confer to discuss options for reaching a reasonable compromise.

Fourth, Atticus confirms that Randy Canady was a custodian of documents produced in response to the FTC's CID. Other custodians of the documents produced in response to the CID will be identifiable in the metadata associated with that production.

Fifth, as requested, please find attached Atticus's current organizational chart, which is being produced as HIGHLY CONFIDENTIAL—OUTSIDE COUNSEL EYES ONLY, in accordance with the applicable Protective Orders.

Atticus proposes that the parties arrange a meet and confer during the week of December 9, 2024, to continue the parties' ongoing discussion. Please also let us know if there is any further information that Syngenta would like at this time. Thank you again for your patience as Atticus works to prepare a responsive production while minimizing the cost and burden on Atticus as a non-party to this litigation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Matt J. Dowd".

Matthew J. Dowd

*Counsel for Non-Party  
Atticus, LLC*















